

AMENDED IN SENATE MAY 19, 2009

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 20, 2009

AMENDED IN SENATE APRIL 1, 2009

SENATE BILL

No. 58

Introduced by Senator Aanestad

January 20, 2009

An act to amend Sections 800, 803.1, 805.5, and 2027 of, and to add Sections 805.3, 805.8, and 2191.5 to, the Business and Professions Code, relating to physicians and surgeons.

LEGISLATIVE COUNSEL'S DIGEST

SB 58, as amended, Aanestad. Physicians and surgeons: peer review.

Existing law provides for the professional review of specified healing arts licentiates through a peer review process conducted by peer review bodies, as defined. *Existing law establishes the Joint Committee on Boards, Commissions, and Consumer Protection and requires the committee to review all state boards every 4 years. Existing law requires those boards, within a specified period of time prior to their review, to submit a report to the committee containing certain information.*

This bill would require peer review bodies to annually report to the Medical Board of California on their peer review activities involving licensees of that board and to comply with any requests from the board for more detailed information. *The bill would require the board to include a summary of those reports in the report submitted to the Joint Committee on Boards, Commissions, and Consumer Protection.*

Under existing law, specified persons are required to file a report, designated as an "805 report," with a licensing board if a peer review

body takes one of several specified actions against a person licensed by that board. Existing law provides various due process rights for licensees who are the subject of a final proposed disciplinary action of a peer review body, including authorizing a licensee to request a hearing concerning that action.

With respect to physicians and surgeons, this bill would require peer review bodies to administer an early detection and resolution program (EDR) in which a peer review body would, where it deems appropriate, allow a physician and surgeon to complete certain training, observation, or consultation requirements instead of being subject to disciplinary action and an 805 report, *as specified*. The bill would delay the physician and surgeon's right to a hearing concerning a final proposed action pending his or her successful completion of EDR.

Existing law requires the Medical Board of California to maintain a central file of its licensees containing, among other things, disciplinary information reported through 805 reports and authorizes licensees to submit additional exculpatory or explanatory statements, as specified. Existing law requires the board to disclose an 805 report to specified health care entities and requires the board to post on the Internet, and to disclose to inquiring members of the public, certain hospital disciplinary actions.

The bill would require the board to include the exculpatory or explanatory statement submitted by licensees regarding 805 reports in disclosures or postings of those reports or of hospital disciplinary actions. ~~The bill would prohibit the board from including certain summary suspension information reported through an 805 report in a licensee's central file or reporting that information to certain health care facilities, except as specified. If a court finds that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the bill would require the board to include that finding in the licensee's central file.~~ The bill would also prohibit the board from reporting or posting, ~~and would require the board to remove from a licensee's central file,~~ certain disciplinary information if a court reverses a disciplinary action reported pursuant to Section 805 ~~or if the board's independent investigation exonerates the licensee from the charges forming the basis of the disciplinary action and the licensee notifies the board of that reversal. The bill would require the board to also send notice of the reversal to members of the public and health care entities to whom the board previously disclosed the disciplinary information.~~

Existing law requires the Medical Board of California to adopt and administer standards for the continuing education of licensed physicians and surgeons.

This bill would require the board to adopt and administer standards allowing a physician and surgeon to receive credit for up to 10 hours of continuing education each year for participating in a peer review body without compensation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 800 of the Business and Professions Code
2 is amended to read:

3 800. (a) The Medical Board of California, the Board of
4 Psychology, the Dental Board of California, the Osteopathic
5 Medical Board of California, the State Board of Chiropractic
6 Examiners, the Board of Registered Nursing, the Board of
7 Vocational Nursing and Psychiatric Technicians, the State Board
8 of Optometry, the Veterinary Medical Board, the Board of
9 Behavioral Sciences, the Physical Therapy Board of California,
10 the California State Board of Pharmacy, and the Speech-Language
11 Pathology and Audiology Board shall each separately create and
12 maintain a central file of the names of all persons who hold a
13 license, certificate, or similar authority from that board. Each
14 central file shall be created and maintained to provide an individual
15 historical record for each licensee with respect to the following
16 information:

17 (1) Any conviction of a crime in this or any other state that
18 constitutes unprofessional conduct pursuant to the reporting
19 requirements of Section 803.

20 (2) Any judgment or settlement requiring the licensee or his or
21 her insurer to pay any amount of damages in excess of three
22 thousand dollars (\$3,000) for any claim that injury or death was
23 proximately caused by the licensee's negligence, error or omission
24 in practice, or by rendering unauthorized professional services,
25 pursuant to the reporting requirements of Section 801 or 802.

26 (3) Any public complaints for which provision is made pursuant
27 to subdivision (b).

1 (4) (A) Disciplinary information reported pursuant to Section
2 805.

3 ~~(B) Notwithstanding subparagraph (A), with respect to a~~
4 ~~physician and surgeon licensed by the Medical Board of California,~~
5 ~~all of the following shall apply:~~

6 ~~(i) If a court reverses a disciplinary action reported pursuant to~~
7 ~~Section 805 or if the board's independent investigation exonerates~~
8 ~~the licensee from the charges forming the basis of the reported~~
9 ~~disciplinary action, the board shall remove the corresponding~~
10 ~~disciplinary information described in subparagraph (A) from the~~
11 ~~licensee's central file.~~

12 ~~(ii) The board shall not include a summary suspension of staff~~
13 ~~privileges, employment, or membership reported pursuant to~~
14 ~~Section 805 in the licensee's central file unless the board confirms,~~
15 ~~by independent investigation, that the suspension is supported by~~
16 ~~substantial evidence of risk to patients.~~

17 *(B) With respect to a physician and surgeon licensed by the*
18 *Medical Board of California, if a court finds that the peer review*
19 *resulting in the 805 report was conducted in bad faith and the*
20 *licensee who is the subject of the report notifies the board of that*
21 *finding, the board shall include that finding in the central file. For*
22 *purposes of this subparagraph, "peer review" has the same*
23 *meaning as defined in Section 805.*

24 (b) Each board shall prescribe and promulgate forms on which
25 members of the public and other licensees or certificate holders
26 may file written complaints to the board alleging any act of
27 misconduct in, or connected with, the performance of professional
28 services by the licensee.

29 If a board, or division thereof, a committee, or a panel has failed
30 to act upon a complaint or report within five years, or has found
31 that the complaint or report is without merit, the central file shall
32 be purged of information relating to the complaint or report.

33 Notwithstanding this subdivision, the Board of Psychology, the
34 Board of Behavioral Sciences, and the Respiratory Care Board of
35 California shall maintain complaints or reports as long as each
36 board deems necessary.

37 (c) The contents of any central file that are not public records
38 under any other provision of law shall be confidential except that
39 the licensee involved, or his or her counsel or representative, shall
40 have the right to inspect and have copies made of his or her

1 complete file except for the provision that may disclose the identity
2 of an information source. For the purposes of this section, a board
3 may protect an information source by providing a copy of the
4 material with only those deletions necessary to protect the identity
5 of the source or by providing a comprehensive summary of the
6 substance of the material. Whichever method is used, the board
7 shall ensure that full disclosure is made to the subject of any
8 personal information that could reasonably in any way reflect or
9 convey anything detrimental, disparaging, or threatening to a
10 licensee's reputation, rights, benefits, privileges, or qualifications,
11 or be used by a board to make a determination that would affect
12 a licensee's rights, benefits, privileges, or qualifications. The
13 information required to be disclosed pursuant to Section 803.1
14 shall not be considered among the contents of a central file for the
15 purposes of this subdivision.

16 (d) The licensee may, but is not required to, submit any
17 additional exculpatory or explanatory statement or other
18 information that the board shall include in the central file.

19 (e) Each board may permit any law enforcement or regulatory
20 agency when required for an investigation of unlawful activity or
21 for licensing, certification, or regulatory purposes to inspect and
22 have copies made of that licensee's file, unless the disclosure is
23 otherwise prohibited by law.

24 These disclosures shall effect no change in the confidential status
25 of these records.

26 SEC. 2. Section 803.1 of the Business and Professions Code
27 is amended to read:

28 803.1. (a) Notwithstanding any other provision of law, the
29 Medical Board of California, the Osteopathic Medical Board of
30 California, and the California Board of Podiatric Medicine shall
31 disclose to an inquiring member of the public information regarding
32 any enforcement actions taken against a licensee by either board
33 or by another state or jurisdiction, including all of the following:

- 34 (1) Temporary restraining orders issued.
35 (2) Interim suspension orders issued.
36 (3) Revocations, suspensions, probations, or limitations on
37 practice ordered by the board, including those made part of a
38 probationary order or stipulated agreement.
39 (4) Public letters of reprimand issued.
40 (5) Infractions, citations, or fines imposed.

(b) Notwithstanding any other provision of law, in addition to the information provided in subdivision (a), the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall disclose to an inquiring member of the public all of the following:

(1) Civil judgments in any amount, whether or not vacated by a settlement after entry of the judgment, that were not reversed on appeal and arbitration awards in any amount of a claim or action for damages for death or personal injury caused by the physician and surgeon's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services.

(2) (A) All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the low-risk category if there are three or more settlements for that licensee within the last 10 years, except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. All settlements in the possession, custody, or control of the board shall be disclosed for a licensee in the high-risk category if there are four or more settlements for that licensee within the last 10 years except for settlements by a licensee regardless of the amount paid where (i) the settlement is made as a part of the settlement of a class claim, (ii) the licensee paid in settlement of the class claim the same amount as the other licensees in the same class or similarly situated licensees in the same class, and (iii) the settlement was paid in the context of a case where the complaint that alleged class liability on behalf of the licensee also alleged a products liability class action cause of action. Classification of a licensee in either a "high-risk category" or a "low-risk category" depends upon the specialty or subspecialty practiced by the licensee and the designation assigned to that specialty or subspecialty by the Medical Board of California, as described in subdivision (f). For the purposes of this paragraph, "settlement" means a settlement of an action described in paragraph (1) entered into by the licensee

1 on or after January 1, 2003, in an amount of thirty thousand dollars
2 (\$30,000) or more.

3 (B) The board shall not disclose the actual dollar amount of a
4 settlement but shall put the number and amount of the settlement
5 in context by doing the following:

6 (i) Comparing the settlement amount to the experience of other
7 licensees within the same specialty or subspecialty, indicating if
8 it is below average, average, or above average for the most recent
9 10-year period.

10 (ii) Reporting the number of years the licensee has been in
11 practice.

12 (iii) Reporting the total number of licensees in that specialty or
13 subspecialty, the number of those who have entered into a
14 settlement agreement, and the percentage that number represents
15 of the total number of licensees in the specialty or subspecialty.

16 (3) Current American Board of Medical Specialty certification
17 or board equivalent as certified by the Medical Board of California,
18 the Osteopathic Medical Board of California, or the California
19 Board of Podiatric Medicine.

20 (4) Approved postgraduate training.

21 (5) Status of the license of a licensee. By January 1, 2004, the
22 Medical Board of California, the Osteopathic Medical Board of
23 California, and the California Board of Podiatric Medicine shall
24 adopt regulations defining the status of a licensee. The board shall
25 employ this definition when disclosing the status of a licensee
26 pursuant to Section 2027.

27 (6) (A) Any summaries of hospital disciplinary actions that
28 result in the termination or revocation of a licensee's staff
29 privileges for medical disciplinary cause or reason.

30 (B) *With respect to a physician and surgeon licensed by the*
31 *Medical Board of California, both of the following shall apply:*

32 ~~(B) The Medical Board of California~~

33 (i) *The board shall include in the information disclosed pursuant*
34 *to subparagraph (A) any exculpatory or explanatory statement*
35 *regarding the hospital disciplinary action provided by a licensed*
36 *physician and surgeon pursuant to subdivision (d) of Section 800.*

37 ~~(C) The Medical Board of California shall not disclose the~~
38 ~~information described in subparagraph (A) with respect to a~~
39 ~~licensed physician and surgeon if a court reverses the hospital~~
40 ~~disciplinary action or if the board's independent investigation~~

1 ~~exonerates the licensee from the charges forming the basis of the~~
2 ~~hospital disciplinary action.~~

3 *(ii) If a court reverses the hospital disciplinary action and the*
4 *licensee notifies the board of that reversal, both of the following*
5 *shall apply:*

6 *(I) The board shall not disclose a summary of the action*
7 *pursuant to this section.*

8 *(II) The board shall send a notice of the reversal to any members*
9 *of the public to whom the board previously disclosed a summary*
10 *of the action under this section.*

11 (c) Notwithstanding any other provision of law, the Medical
12 Board of California, the Osteopathic Medical Board of California,
13 and the California Board of Podiatric Medicine shall disclose to
14 an inquiring member of the public information received regarding
15 felony convictions of a physician and surgeon or doctor of podiatric
16 medicine.

17 (d) The Medical Board of California, the Osteopathic Medical
18 Board of California, and the California Board of Podiatric Medicine
19 may formulate appropriate disclaimers or explanatory statements
20 to be included with any information released, and may by
21 regulation establish categories of information that need not be
22 disclosed to an inquiring member of the public because that
23 information is unreliable or not sufficiently related to the licensee's
24 professional practice. The Medical Board of California, the
25 Osteopathic Medical Board of California, and the California Board
26 of Podiatric Medicine shall include the following statement when
27 disclosing information concerning a settlement:

28
29 “Some studies have shown that there is no significant correlation
30 between malpractice history and a doctor's competence. At the
31 same time, the State of California believes that consumers should
32 have access to malpractice information. In these profiles, the State
33 of California has given you information about both the malpractice
34 settlement history for the doctor's specialty and the doctor's history
35 of settlement payments only if in the last 10 years, the doctor, if
36 in a low-risk specialty, has three or more settlements or the doctor,
37 if in a high-risk specialty, has four or more settlements. The State
38 of California has excluded some class action lawsuits because
39 those cases are commonly related to systems issues such as product
40 liability, rather than questions of individual professional

1 competence and because they are brought on a class basis where
2 the economic incentive for settlement is great. The State of
3 California has placed payment amounts into three statistical
4 categories: below average, average, and above average compared
5 to others in the doctor's specialty. To make the best health care
6 decisions, you should view this information in perspective. You
7 could miss an opportunity for high-quality care by selecting a
8 doctor based solely on malpractice history.

9 When considering malpractice data, please keep in mind:

10 Malpractice histories tend to vary by specialty. Some specialties
11 are more likely than others to be the subject of litigation. This
12 report compares doctors only to the members of their specialty,
13 not to all doctors, in order to make an individual doctor's history
14 more meaningful.

15 This report reflects data only for settlements made on or after
16 January 1, 2003. Moreover, it includes information concerning
17 those settlements for a 10-year period only. Therefore, you should
18 know that a doctor may have made settlements in the 10 years
19 immediately preceding January 1, 2003, that are not included in
20 this report. After January 1, 2013, for doctors practicing less than
21 10 years, the data covers their total years of practice. You should
22 take into account the effective date of settlement disclosure as well
23 as how long the doctor has been in practice when considering
24 malpractice averages.

25 The incident causing the malpractice claim may have happened
26 years before a payment is finally made. Sometimes, it takes a long
27 time for a malpractice lawsuit to settle. Some doctors work
28 primarily with high-risk patients. These doctors may have
29 malpractice settlement histories that are higher than average
30 because they specialize in cases or patients who are at very high
31 risk for problems.

32 Settlement of a claim may occur for a variety of reasons that do
33 not necessarily reflect negatively on the professional competence
34 or conduct of the doctor. A payment in settlement of a medical
35 malpractice action or claim should not be construed as creating a
36 presumption that medical malpractice has occurred.

37 You may wish to discuss information in this report and the
38 general issue of malpractice with your doctor.”
39

(e) The Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall, by regulation, develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the Internet pursuant to Section 2027, the Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall not use the terms “enforcement,” “discipline,” or similar language implying a sanction unless the physician and surgeon has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).

(f) The Medical Board of California shall adopt regulations no later than July 1, 2003, designating each specialty and subspecialty practice area as either high risk or low risk. In promulgating these regulations, the board shall consult with commercial underwriters of medical malpractice insurance companies, health care systems that self-insure physicians and surgeons, and representatives of the California medical specialty societies. The board shall utilize the carriers’ statewide data to establish the two risk categories and the averages required by subparagraph (B) of paragraph (2) of subdivision (b). Prior to issuing regulations, the board shall convene public meetings with the medical malpractice carriers, self-insurers, and specialty representatives.

(g) The Medical Board of California, the Osteopathic Medical Board of California, and the California Board of Podiatric Medicine shall provide each licensee with a copy of the text of any proposed public disclosure authorized by this section prior to release of the disclosure to the public. The licensee shall have 10 working days from the date the board provides the copy of the proposed public disclosure to propose corrections of factual inaccuracies. Nothing in this section shall prevent the board from disclosing information to the public prior to the expiration of the 10-day period.

(h) Pursuant to subparagraph (A) of paragraph (2) of subdivision (b), the specialty or subspecialty information required by this section shall group physicians by specialty board recognized pursuant to paragraph (5) of subdivision (h) of Section 651 unless a different grouping would be more valid and the board, in its

1 statement of reasons for its regulations, explains why the validity
2 of the grouping would be more valid.

3 SEC. 3. Section 805.3 is added to the Business and Professions
4 Code, to read:

5 805.3. (a) A peer review body shall annually report to the
6 Medical Board of California on its peer review activities involving
7 licensees of that board and shall comply with any requests from
8 that board for more detailed information. ~~The~~

9 (b) *The Medical Board of California shall include a summary*
10 *of the reports received pursuant to this section during the most*
11 *recent four-year period in the report required under Section 474.2.*

12 (c) Any information reported pursuant to this section shall be
13 kept confidential.

14 SEC. 4. Section 805.5 of the Business and Professions Code
15 is amended to read:

16 805.5. (a) Prior to granting or renewing staff privileges for
17 any physician and surgeon, psychologist, podiatrist, or dentist, any
18 health facility licensed pursuant to Division 2 (commencing with
19 Section 1200) of the Health and Safety Code, or any health care
20 service plan or medical care foundation, or the medical staff of the
21 institution shall request a report from the Medical Board of
22 California, the Board of Psychology, the Osteopathic Medical
23 Board of California, or the Dental Board of California to determine
24 if any report has been made pursuant to Section 805 indicating
25 that the applying physician and surgeon, psychologist, podiatrist,
26 or dentist has been denied staff privileges, been removed from a
27 medical staff, or had his or her staff privileges restricted as
28 provided in Section 805. The request shall include the name and
29 California license number of the physician and surgeon,
30 psychologist, podiatrist, or dentist. Furnishing of a copy of the 805
31 report shall not cause the 805 report to be a public record.

32 (b) Upon a request made by, or on behalf of, an institution
33 described in subdivision (a) or its medical staff, which is received
34 on or after January 1, 1980, the board shall furnish a copy of any
35 report made pursuant to Section 805. However, the board shall not
36 send a copy of a report (1) if the denial, removal, or restriction
37 was imposed solely because of the failure to complete medical
38 records, (2) if the board has found the information reported is
39 without merit, or (3) if a period of three years has elapsed since
40 the report was submitted. This three-year period shall be tolled

1 during any period the licentiate has obtained a judicial order
2 precluding disclosure of the report, unless the board is finally and
3 permanently precluded by judicial order from disclosing the report.
4 In the event a request is received by the board while the board is
5 subject to a judicial order limiting or precluding disclosure, the
6 board shall provide a disclosure to any qualified requesting party
7 as soon as practicable after the judicial order is no longer in force.

8 In the event that the board fails to advise the institution within
9 30 working days following its request for a report required by this
10 section, the institution may grant or renew staff privileges for the
11 physician and surgeon, psychologist, podiatrist, or dentist.

12 (c) With respect to the Medical Board of California, both of the
13 following shall apply:

14 (1) In addition to the circumstances identified in subdivision
15 (b), the board shall not send a copy of ~~a report made pursuant to~~
16 ~~Section 805~~ *an 805 report* if a court reverses the denial, removal,
17 ~~or restriction.~~

18 ~~In addition, the board shall not send a copy of a report made~~
19 ~~pursuant to subdivision (c) of Section 805, regarding the imposition~~
20 ~~of a summary suspension of staff privileges, membership, or~~
21 ~~employment, unless the board confirms, by independent~~
22 ~~investigation, that the suspension is supported by substantial~~
23 ~~evidence of risk to patients. restriction and the licensee notifies~~
24 ~~the board of that reversal. If the board receives notice of the~~
25 ~~reversal after sending a copy of an 805 report pursuant to this~~
26 ~~section, the board shall send a notice of the reversal to all entities~~
27 ~~to which the board previously sent the copy.~~

28 (2) The board shall include with the copy of the 805 report
29 furnished under this section any exculpatory or explanatory
30 statement made regarding the report pursuant to subdivision (d)
31 of Section 800.

32 (d) Any institution described in subdivision (a) or its medical
33 staff that violates subdivision (a) is guilty of a misdemeanor and
34 shall be punished by a fine of not less than two hundred dollars
35 (\$200) nor more than one thousand two hundred dollars (\$1,200).

36 SEC. 5. Section 805.8 is added to the Business and Professions
37 Code, to read:

38 805.8. (a) For purposes of this section, the following
39 definitions apply:

40 (1) "Board" means the Medical Board of California.

1 (2) “Physician and surgeon” means a physician and surgeon
2 licensed by the board.

3 (b) A peer review body shall administer an early detection and
4 resolution program (EDR) in which all of the following occur:

5 (1) The peer review body, where it deems appropriate, gives a
6 physician and surgeon, who is the subject of a final proposed action
7 for which an 805 report is required to be filed, the option of
8 completing EDR.

9 (2) The peer review body requires the physician and surgeon
10 participating in EDR to do any of the following for a period of
11 time designated by the peer review body as a condition of
12 completion of EDR:

13 (A) Be observed during patient care interventions by another
14 physician and surgeon.

15 (B) Consult another physician and surgeon prior to implementing
16 a course of care.

17 (C) Complete education or training designated by the peer
18 review body.

19 (c) Notwithstanding Section 809.1 or 809.2, a physician and
20 surgeon shall not have a right to a hearing concerning the peer
21 review body’s final proposed action while participating in or after
22 successfully completing EDR. The time limit to request this hearing
23 shall be tolled pending the physician and surgeon’s successful
24 completion of EDR.

25 (d) The peer review body acting pursuant to subdivision (b)
26 shall not file an 805 report for any action that resulted in referral
27 to EDR while a physician and surgeon participates in EDR or after
28 the physician and surgeon successfully completes EDR.

29 (e) A physician and surgeon who successfully completes EDR
30 shall not be subject to any disciplinary action by the peer review
31 body acting pursuant to subdivision (b) or the board for any action
32 that resulted in referral to EDR. However, *a physician and*
33 *surgeon’s successful completion of or participation in EDR shall*
34 *not preclude the peer review body or the board from investigating*
35 *or continuing to investigate, or from taking or continuing to take*
36 *disciplinary action against a physician and investigating or taking*
37 *disciplinary action against the physician and surgeon for any*
38 *unprofessional conduct that does not serve as a did not serve as*
39 *the basis for referral to EDR. In addition, the peer review body*
40 *and the board may investigate and take disciplinary action against*

1 *a physician and surgeon who successfully completes EDR if the*
2 *physician and surgeon resumes the unprofessional conduct that*
3 *previously resulted in referral to EDR.*

4 (f) The time limit for filing an accusation under Section 2230.5
5 shall be tolled from the date on which a peer review body notifies
6 the board of the physician and surgeon's participation in EDR
7 under subdivision (h) until the date that the board receives notice
8 from the peer review body that the physician and surgeon failed
9 to successfully complete EDR under subdivision (h).

10 (g) A physician and surgeon participating in EDR shall not
11 establish staff privileges at any new facility while participating in
12 EDR.

13 (h) A peer review body shall notify the board of a physician
14 and surgeon's participation in EDR. A peer review body shall also
15 provide that notification to health care facilities at which the
16 physician and surgeon has staff privileges. The peer review body
17 shall also notify the board and those health care facilities when
18 that participation has ceased, including whether or not the physician
19 and surgeon successfully completed EDR.

20 (i) Costs incurred in connection with EDR shall be the sole
21 responsibility of the participating physician and surgeon.

22 (j) Except for disclosures to the board and health care facilities
23 required under subdivision (h), a peer review body shall not
24 disclose information obtained in administering EDR that
25 individually identifies patients, participants in EDR, individual
26 health care professionals, peer review bodies, or their committees
27 or members, or individual health care facilities.

28 SEC. 6. Section 2027 of the Business and Professions Code is
29 amended to read:

30 2027. (a) The board shall post on the Internet the following
31 information in its possession, custody, or control regarding licensed
32 physicians and surgeons:

33 (1) With regard to the status of the license, whether or not the
34 licensee is in good standing, subject to a temporary restraining
35 order (TRO), subject to an interim suspension order (ISO), or
36 subject to any of the enforcement actions set forth in Section 803.1.

37 (2) With regard to prior discipline, whether or not the licensee
38 has been subject to discipline by the board or by the board of
39 another state or jurisdiction, as described in Section 803.1.

1 (3) Any felony convictions reported to the board after January
2 3, 1991.

3 (4) All current accusations filed by the Attorney General,
4 including those accusations that are on appeal. For purposes of
5 this paragraph, “current accusation” shall mean an accusation that
6 has not been dismissed, withdrawn, or settled, and has not been
7 finally decided upon by an administrative law judge and the
8 Medical Board of California unless an appeal of that decision is
9 pending.

10 (5) Any malpractice judgment or arbitration award reported to
11 the board after January 1, 1993.

12 (6) Any hospital disciplinary actions that resulted in the
13 termination or revocation of a licensee’s hospital staff privileges
14 for a medical disciplinary cause or reason. The board shall also
15 post any exculpatory or explanatory statement regarding those
16 hospital disciplinary actions provided by the licensee pursuant to
17 subdivision (d) of Section 800.

18 (7) Any misdemeanor conviction that results in a disciplinary
19 action or an accusation that is not subsequently withdrawn or
20 dismissed.

21 (8) Appropriate disclaimers and explanatory statements to
22 accompany the above information, including an explanation of
23 what types of information are not disclosed. These disclaimers and
24 statements shall be developed by the board and shall be adopted
25 by regulation.

26 (9) Any information required to be disclosed pursuant to Section
27 803.1.

28 (b) (1) From January 1, 2003, the information described in
29 paragraphs (1) (other than whether or not the licensee is in good
30 standing), (2), (4), (5), (7), and (9) of subdivision (a) shall remain
31 posted for a period of 10 years from the date the board obtains
32 possession, custody, or control of the information, and after the
33 end of that period shall be removed from being posted on the
34 board’s Internet Web site. Information in the possession, custody,
35 or control of the board prior to January 1, 2003, shall be posted
36 for a period of 10 years from January 1, 2003. Settlement
37 information shall be posted as described in paragraph (2) of
38 subdivision (b) of Section 803.1.

39 (2) The information described in paragraphs (3) and (6) of
40 subdivision (a) shall not be removed from being posted on the

1 board's Internet Web site. Notwithstanding the provisions of this
2 paragraph, if a licensee's hospital staff privileges are restored and
3 the licensee notifies the board of the restoration, the information
4 pertaining to the termination or revocation of those privileges, as
5 described in paragraph (6) of subdivision (a), shall remain posted
6 for a period of 10 years from the restoration date of the privileges,
7 and at the end of that period shall be removed from being posted
8 on the board's Internet Web site.

9 (c) Notwithstanding subdivision (a) or paragraph (2) of
10 subdivision (b), the board shall remove and shall not post the
11 information described in paragraph (6) of subdivision (a) if a court
12 reverses the hospital disciplinary action ~~or if the board's~~
13 ~~independent investigation exonerates the licensee from the charges~~
14 ~~forming the basis of the hospital disciplinary action. and the~~
15 *licensee notifies the board of that reversal.*

16 (d) The board shall provide links to other Web sites on the
17 Internet that provide information on board certifications that meet
18 the requirements of subdivision (b) of Section 651. The board may
19 provide links to other Web sites on the Internet that provide
20 information on health care service plans, health insurers, hospitals,
21 or other facilities. The board may also provide links to any other
22 sites that would provide information on the affiliations of licensed
23 physicians and surgeons.

24 SEC. 7. Section 2191.5 is added to the Business and Professions
25 Code, to read:

26 2191.5. The board shall adopt and administer standards
27 allowing a physician and surgeon to receive credit for up to 10
28 hours of continuing education each year for participating in a peer
29 review body without compensation. For purposes of this section,
30 "peer review body" has the same meaning as that term is defined
31 in Section 805.